

## LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

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**P.A.S.:** Miscellaneous 01013

**DATE:** November 26, 2001

**PROPOSAL:** To amend Lincoln Municipal Code (LMC) Title 26 to be consistent with recent amendments to LMC Chapter 24.38.

<b><u>RECOMMENDATION:</u></b>
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Approval
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### **GENERAL INFORMATION:**

**APPLICANT:** Kathleen Sellman  
Director of Planning

**CONTACT:** Brian Will  
Planning Department  
555 S. 10<sup>th</sup> Street, Room 213  
(402)441-6373

**PROPOSED TEXT CHANGES:** Attached.

### **ANALYSIS:**

1. The City Council recently considered an ordinance amending Title 24, in part to ensure Municipal Code was implementing State regulatory requirements. Among several amendments to Title 24 were those to modify the definitions of "community wastewater system" and "individual wastewater system". However, as these definitions are also used in Title 26, it must be modified to maintain consistency of terminology throughout Municipal Code.
2. The proposed ordinance ensures that consistent language is used throughout Lincoln Municipal Code and that it does not contradict State law.

Prepared by:

Brian Will, AICP  
Planner

## ORDINANCE NO. \_\_\_\_\_

1 AN ORDINANCE amending Title 26 of the Lincoln Municipal Code relating to  
2 the Land Subdivision Ordinance by repealing Section 26.07.060 to repeal the definition of  
3 community wastewater system; by repealing Section 26.07.123 to repeal the definition of  
4 individual wastewater system; by amending Section 26.07.127 to define on-site wastewater  
5 treatment system; by adding a new section 26.07.128 to define outlot; by adding a new  
6 section numbered 26.07.240 to define wastewater works; by amending Sections 26.11.015,  
7 26.11.038, 26.11.039, 26.11.040, and 26.27.040 to change references from community  
8 wastewater systems and individual wastewater systems to wastewater works and on-site  
9 wastewater treatment systems, respectively; and repealing Sections 26.07.127, 26.11.015,  
10 26.11.038, 26.11.039, 26.11.040 and 26.27.040 of the Lincoln Municipal Code as hitherto  
11 existing.

12 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

13 Section 1. That Section 26.07.060 of the Lincoln Municipal Code be and the  
14 same is repealed.

15 ~~26.07.060 Community Wastewater System.~~

16 ~~Community wastewater system means any system, whether publicly or privately~~  
17 ~~owned, serving two or more lots, for the collection and treatment of wastewater or industrial~~  
18 ~~wastes of a liquid nature, including various devices for the treatment of such wastewater or~~  
19 ~~industrial wastes.~~

20 Section 2. That Section 26.07.123 of the Lincoln Municipal Code be and the  
21 same is hereby repealed.

22 ~~26.07.123 Individual Wastewater System.~~

23 ~~Individual wastewater system means a wastewater system, other than a public or~~  
24 ~~community system, which receives either human excreta or liquid waste, or both from no~~  
25 ~~more than one lot. Included within the scope of this definition are wastewater stabilization~~

1 ponds, septic tank soil-absorption systems, chemical-type systems, and such other types of  
2 systems as may be similar to those specified herein.

3 Section 3. That Section 26.07.127 of the Lincoln Municipal Code be amended  
4 to read as follows:

5 **26.07.127 Outlot On-site Wastewater Treatment System.**

6 ~~—— A parcel of real property having the same definition as a "lot" as defined hereinbefore,~~  
7 ~~but not presently designated for building or occupancy, reserved for future building or~~  
8 ~~occupancy after platting and subdivision, or reserved for open space and common facilities,~~  
9 ~~which present and proposed future use must be designated by the subdivider at the time of~~  
10 ~~filing of the initial plat.~~

11 On-site wastewater treatment system shall mean any system of piping, treatment  
12 devices, or other appurtenances that convey, store, treat, or dispose of wastewater on the  
13 property where it originates, or on nearby property under the control of the user, where the  
14 system is not connected to a wastewater works. All systems are limited to a maximum size  
15 of 1000 gallons per day to be considered an on-site wastewater treatment system.

16 Section 4. That Chapter 26.07 of the Lincoln Municipal Code by adding a new  
17 section numbered 26.07.128 to read as follows:

18 **26.07.128 Outlot.**

19 A parcel of real property having the same definition as a "lot" as defined hereinbefore,  
20 but not presently designated for building or occupancy, reserved for future building or  
21 occupancy after platting and subdivision, or reserved for open space and common facilities,  
22 which present and proposed future use must be designated by the subdivider at the time of  
23 filing of the initial plat.

24 Section 5. That Chapter 26.07 of the Lincoln Municipal Code be amended by  
25 adding a new section numbered 26.07.240 to read as follows:

26 **26.07.240 Wastewater Works.**

27 Wastewater works shall mean facilities, whether public or community (private), for  
28 collecting, transporting, pumping and treating wastewater and the disposal of treated effluent  
29 and sludges.

1                   Section 6. That Section 26.11.015 of the Lincoln Municipal Code be amended  
2 to read as follows:

3 **26.11.015    Administrative Plat.**

4           The Planning Director is hereby empowered to administratively approve the plat of a  
5 subdivision under the following conditions:

6           (a)    No new street or private roadway is accepted or needed within the area of the  
7 new lots, except in the sole discretion of the Planning Director, private roadways which will  
8 serve only the proposed subdivision may be accepted within industrial or commercial districts  
9 when the director is satisfied that public streets are not desirable or necessary, every lot fronts  
10 upon and takes access to the private roadway or public street, adequate internal circulation  
11 exists, city design standards for private roadways are met, and provisions have been made for  
12 the proper and continuous maintenance of the roadway in accordance with the provisions of  
13 this title.

14           (b)    Required easements for utilities, drainage, and any other improvement as found  
15 in this title shall be provided. If proper provisions for any required utility, drainage, and any  
16 other improvement as found in this title cannot be made, the administrative plat shall be disap-  
17 proved.

18           (c)    The Planning Director may require the posting of bonds or an escrow or security  
19 agreement approved by the city attorney in an amount sufficient to guarantee the installation  
20 of required improvements as found in this title. Said improvements shall be completed within  
21 the same time limits as allowed for plats requiring council approval.

22           (d)    The subdivider shall submit such information as set forth in Sections 26.15.015,  
23 26.15.020, 26.15.030, and 26.15.040 of this title as specified by the Planning Director.

24           (e)    Where individual water systems or on-site wastewater treatment systems are  
25 proposed to serve any of the proposed lots, the Health Department must approve the system,  
26 and all plans and information required by the Health Department shall be provided by the  
27 subdivider.

28           (f)    (1)   Prior to the approval of the administrative plat, the subdivider shall  
29 provide a statement from the County Treasurer's office showing there are no tax liens against  
30 said land within the proposed subdivision or any part thereof. The subdivider shall also pro-

1 vide a statement from the City Treasurer's office showing that all special assessment  
2 installment payments are current as applied to said proposed subdivision or any part thereof.  
3 All taxes shall be paid in full on all real property dedicated to a public use.

4 (2) In the event of any proposed dedication for public use, a certificate of  
5 title or a title opinion issued to or for the benefit and protection of the city showing all parties  
6 whose consent is necessary to pass clear title for the land being subdivided and dedicated,  
7 together with the nature of their interests therein, shall be furnished. Such proof of title shall  
8 be in a form acceptable to the City Attorney. Any subsequent change affecting ownership of  
9 the proposed subdivision or any part thereof shall be made only upon the prompt notification  
10 and certification to the city of said change in ownership. The city shall assume no  
11 responsibility for any title problem with said proposed subdivision or any part thereof, and ap-  
12 proval of said subdivision shall not be construed as approval of the title of the proposed  
13 subdivision or any part thereof.

14 (g) The administrative plat shall be in accordance with the comprehensive plan  
15 except that there shall be no dedication of land required for street right-of-way purposes under  
16 the following conditions:

17 (1) The land involved in the administrative plat has previously been  
18 subdivided or platted in accordance with the then applicable subdivision ordinances and  
19 procedures of the city.

20 (2) The maximum lot size for any one lot created by the proposed  
21 administrative plat does not exceed 15,000 square feet.

22 (h) The administrative plat shall be in accordance with all the development  
23 standards of this title, except that a lot may have a maximum depth of five times its width  
24 under the following conditions:

25 (1) The land involved in the administrative plat is zoned O-1, O-2, O-3, B-1,  
26 B-2, B-3, B-4, B-5, H-1, H-2, H-3, H-4, I-1, I-2, and I-3 districts;

27 (2) The minimum lot frontage of lots created by the proposed administrative  
28 plat is 100 feet or more.

29 (i) The subdivider shall submit an accurately drawn plat showing the proposed lots  
30 including the length of each lot line and its angle of deflection. Affixed to the plat shall be a

1 certificate signed by a registered land surveyor certifying that each proposed lot has been accu-  
2 rately surveyed and that each lot corner has been well and accurately staked and marked.

3 (j) The form of the administrative plat shall be as provided in Chapter 26.19 except  
4 the approval certificate will be signed by the Planning Director and certification by Planning  
5 Commission and City Clerk will not be required.

6 (k) All land within the limits of a proposed administrative plat outside of, but  
7 adjoining or contiguous to, the corporate limits of the city must first be annexed by the council  
8 prior to approval of such administrative plat if all the land lies within the future urban area as  
9 defined and delineated in the Lincoln-Lancaster County Comprehensive Plan.

10 Section 7. That Section 26.11.038 of the Lincoln Municipal Code be amended  
11 to read as follows:

12 **26.11.038 Authority to Proceed With Improvements.**

13 After submittal of a proposed preliminary plat to the City Clerk, the City Clerk shall  
14 cause the proposed preliminary plat to be placed on the agenda of the City Council for  
15 approval by the City Council by resolution. Receipt by the subdivider of approval of the  
16 preliminary plat and acceptance by the City Council shall constitute authority for the  
17 subdivider to proceed with plans, profiles, and specifications for the grading and land  
18 preparation, presentation of the final plat to the Commission, and the installation of the  
19 required improvements, except street lighting and street name signs. No person shall engage  
20 in the grading or disturbance of any land greater than two acres in size without first submitting  
21 a drainage and grading plan setting forth the requirements of the design standards applicable  
22 to stormwater management, erosion, and sedimentation control and obtaining approval of said  
23 plan. Any person who engages in the grading or disturbance of any land in violation of the  
24 provisions contained in this section shall be subject to an order to cease and desist such  
25 grading work. No utility or improvement shall be installed or constructed until the area to be  
26 developed has been graded and the subdivider's licensed surveyor or engineer has submitted  
27 a written statement with the seal of the professional to the Director of Public Works and  
28 Utilities that the grading and shaping of the land to be developed has been completed in  
29 conformance with the grading shown on the preliminary plat, the drainage study, and the final  
30 street grades. The Director of Public Works and Utilities may approve the grading,

1 installation, and construction in phases. Also, no utility or improvement shall be installed or  
2 constructed until the plans, and if appropriate profiles and specifications, are prepared by the  
3 appropriate city department or submitted by the subdivider to the appropriate city department  
4 and other governmental agencies required by law, and approval is granted. Plans, and if  
5 appropriate profiles and specifications, for street surfacing, sidewalks, public water systems,  
6 public wastewater systems, storm drains, and drainage systems, land preparation and grading,  
7 and temporary turnarounds not prepared by the city engineering staff shall be submitted to the  
8 Department of Public Works and Utilities for approval. Plans, profiles, and specifications for  
9 community water systems and community wastewater ~~systems~~ works shall be reviewed and  
10 approved pursuant to Section 26.11.040(d) of this title. Individual water well systems and  
11 ~~individual on-site~~ wastewater treatment systems shall be submitted to the City-County Health  
12 Department for approval. Plans and specifications for landscape screens and trees shall be  
13 submitted to the Planning Director for approval. Plans and specifications for electrical  
14 distribution systems and street lighting shall be prepared by the Lincoln Electric System (LES)  
15 unless the subdivider requests and receives permission from LES to use a private consulting  
16 engineer, then the plans and specifications shall be submitted to LES for approval. The plans  
17 and specifications for street name signs shall be prepared by the Department of Public Works  
18 and Utilities. The plans and specifications for the grading and land preparation, paving, street  
19 surfacing, public water system, public wastewater ~~system~~ works and storm drains shall be  
20 prepared by a professional engineer or architect registered in the State of Nebraska.

21 Installation of utilities and improvements may be allowed on all or a portion of the  
22 proposed subdivision prior to the approval of the final plat. Street surfacing, public water  
23 systems, public wastewater ~~systems~~ works, and public street lighting shall not be installed or  
24 constructed until authorized by executive order of the Mayor or ordered constructed by the  
25 city through an assessment district. Storm drainage systems shall not be installed or con-  
26 structed until authorized by executive order of the Mayor.

27 The design and installation of each utility and other improvements shall be in strict  
28 accordance with the design standards for that utility or other improvement. Design standards  
29 for utilities and other improvements shall be on file with and available from the City Clerk.

1                   Section 8. That Section 26.11.039 of the Lincoln Municipal Code be amended  
2 to read as follows:

3 **26.11.039    Requisites for Final Plat Approval.**

4           Before any final plat may be approved, provisions for the installation of the minimum  
5 improvements set out in Chapter 26.27 shall be made in one of the following manners:

6           (a)    Improvements have been installed and approved. This is the only method avail-  
7 able for community wastewater ~~systems~~ works and community water systems.

8           (b)    Petitions for assessment districts and if necessary formal petitions with required  
9 signatures, have been filed with the Planning Director. Such assessment districts may be  
10 created for public improvements within the corporate limits of the city at the sole option of  
11 the city, and shall be used for only the completion of street paving, public water systems,  
12 public wastewater ~~systems~~ works, and street lighting. Provided, however, the approved final  
13 plat shall not be recorded in the office of the Register of Deeds until the city has created all  
14 such petitioned assessment districts.

15           (c)    A bond, escrow, or security agreement approved by the City Law Department  
16 has been furnished in an amount sufficient to guarantee the installation of the required  
17 improvements.

18           (d)    An agreement is signed by the subdivider guaranteeing that the improvement  
19 is completed within a time specified by the city. However, this alternative is available only  
20 for ~~individual~~ on-site wastewater treatment systems, individual water well systems, and the  
21 completion of land preparation.

22           Prior to the approval of the final plat, the appropriate city department shall estimate the  
23 cost of completing the improvements. The amount of the bonds or escrow or security  
24 agreement shall be established by the city and may be increased or decreased according to  
25 current conditions. If the amount of the bond or escrow or security agreement is less than the  
26 actual cost of the installation of the improvements, the subdivider shall be responsible for the  
27 payment of any such additional costs of the improvements. No surety bond or other security  
28 shall be accepted unless:

- 29           (1)    It is enforceable by or payable to the city;



1                   (2)     It provides that any extension of time, change, alteration, or addition,  
2     which may be approved by the city for construction or completion of the improvement for  
3     which the bond is given, shall in no manner affect or relieve the obligation of the surety,  
4     regardless of whether or not the surety is given notice of any such extension of time, change,  
5     alteration, or addition;

6                   (3)     It cannot be terminated without written authorization of the Mayor;

7                   (4)     It is written by a corporate surety company authorized to do business in  
8     the State of Nebraska, or approved security deposits have been made to an institution licensed  
9     to do business in the State of Nebraska; and

10                  (5)     It is a form with surety and conditions approved by the City Attorney.

11                  Section 9. That Section 26.11.040 of the Lincoln Municipal Code be amended  
12     to read as follows:

13     **26.11.040     Installation of Improvements.**

14                  Improvements shall be installed as follows:

15                  (a)     Sidewalks within streets and those trees not included in a landscape screen  
16     within four years of final plat approval; provided, however, when sidewalks have been con-  
17     structed on seventy percent or more of the frontage along a major street between two street  
18     intersections, the remaining sidewalk therein shall be constructed.

19                  (b)     Sidewalks within pedestrian ways at the same time the adjacent streets in the  
20     final plat are surfaced.

21                  (c)     Street lights on the side of the streets and private roadways which abut the sub-  
22     division, land preparation, and landscape screens within the period established by the city.

23                  (d)     Community wastewater ~~systems~~ works and community water systems  
24     constructed and approved as specified below prior to final plat approval. The wastewater  
25     treatment and discharge system and the water supply, collection, treatment, and storage shall  
26     be constructed to the satisfaction of the State of Nebraska. The wastewater collection system  
27     and the water distribution system shall be constructed to the satisfaction of the Director of  
28     Public Works and Utilities. The Director of Public Works and Utilities may as an option  
29     accept a certification from a registered professional engineer that the wastewater collection

1 system and the water distribution system was completed in accordance with the City of  
2 Lincoln design standards..

3 (e) ~~Individual~~ On-site wastewater treatment systems and individual water well  
4 systems shall be completed in accordance with the rules and regulations of the Health Depart-  
5 ment at the time improvements are constructed on the lot.

6 (f) All other improvements listed in Chapter 26.27 within the period established  
7 by the city not exceeding two years from final plat approval.

8 Whenever twenty-five, fifty, or seventy-five percent or more of the value of any  
9 required improvement, except street trees and landscape screens, within the final plat has  
10 been completed, the penal amount of the original bond or other security required for said  
11 improvement may be reduced by twenty-five, fifty, and seventy-five percent, respectively;  
12 provided that such reduction does not reduce the penal amount of the bond or other security  
13 to an amount less than one hundred ten percent (110%) of the estimated cost of the work  
14 remaining to be completed.

15 Section 10. That Section 26.27.040 of the Lincoln Municipal Code be amended  
16 to read as follows:

17 **26.27.040 Wastewater Disposal.**

18 (a) All subdivisions within the corporate limits of the city or within the future urban  
19 area designated in the comprehensive plan shall have a wastewater collection system  
20 constructed in accordance with the design standards of the city. All subdivisions located  
21 within the corporate limits of the city must connect to the city wastewater collection system  
22 if the system is reasonably accessible. The city wastewater collection system shall be  
23 extended to enable each lot to make a connection in accordance with Titles 17 and 24 of the  
24 Lincoln Municipal Code. The community wastewater ~~collection system~~ works shall be  
25 extended to enable each lot not having reasonable access to the city wastewater collection  
26 system to make a connection to a community wastewater system works. However, as soon  
27 as the city wastewater collection system is available, each lot shall be connected to the city  
28 wastewater collection system.

29 (b) In any subdivision beyond the city limits or the future urban area as designated  
30 in the comprehensive plan, where more than four lots of three acres in size or less are created

1 for building purposes, a community wastewater system works shall be constructed to serve all  
2 the lots within the subdivision.

3 (c) In any subdivision, other than those designated in Section 26.27.040(b), located  
4 beyond the city limits or the future urban areas as designated in the comprehensive plan,  
5 individual on-site wastewater treatment systems may be permitted if each disposal system is  
6 in conformance with Chapter 24.38 of this code and is approved by the City-County Health  
7 Department.

8 (d) In any subdivision where a community wastewater system works is required,  
9 the subdivider, his successors and assigns, shall enter into an agreement with the city,  
10 whereby the operation and maintenance of the community wastewater system works shall be  
11 in compliance with the rules and regulations of wastewater treatment works of the state of  
12 Nebraska, a discharge permit has been received from the State of Nebraska, and the operator  
13 of the system has been trained to operate the system and possesses a certificate of competency  
14 issued by the State of Nebraska.

15 Section 11. That Sections 26.07.127, 26.11.015, 26.11.038, 26.11.039,  
16 26.11.040, and 26.27.040 of the Lincoln Municipal Code as hitherto existing be and the same  
17 are hereby repealed.

18 Section 12. That this ordinance shall take effect and be in force from and after  
19 its passage and publication according to law.

Introduced by:

Approved as to Form & Legality:

\_\_\_\_\_  
City Attorney

Staff Review Completed:

\_\_\_\_\_  
Administrative Assistant

Approved this \_\_\_ day of \_\_\_\_\_, 2001:

\_\_\_\_\_  
Mayor